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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,379	03/16/2000	Lecon Woo	1417Y P 418	2449

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09/30/2003

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EXAMINER

NOLAN, SANDRA M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 09/30/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/526,379

Applicant(s)

WOO ET AL.

Examiner

Sandra M. Nolan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-11, 13-25, 31-33 and 35-41 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 26-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claims

1. Claims 1-11, 13-33 and 35-41 are pending.

Rejections Maintained

2. The 35 USC 102 rejection of claims 1,3, 7-25 and 38-41 over Rosenbaum (WO-95/13918), stated in section 9 of the 05 May 2003 office action (Paper No. 18) is maintained for reasons of record.
3. The 35 USC 103 rejection of claims 9-11 and 31-33 as unpatentable over Rosenbaum in view of Sudo, as set forth in section 12 of Paper No. 18, is maintained for reasons of record.
4. The 35 USC 103 rejection of claims 21 and 35-37, as unpatentable over Rosenbaum in view of Wilhoit et al (US 5,928,740), as set out in section 13 of Paper No. 18, is maintained for reasons of record.

Rejection Withdrawn

5. The 35 USC 103 rejection of claims 4-8, 13-16 and 26-30, as unpatentable over Rosenbaum in view of Wilhoit et al (US 5,928,740), as set out in section 13 of Paper No. 18, is withdrawn in view of applicants' arguments on page 4 of their 10 July 2003 response (Paper No. 19).

Allowable Subject Matter

6. Claims 4-6 and 26-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record does not teach or suggest two component films in which the second component is a blend of propylene polymers, as recited in claims 4 and 26.

Response to Arguments

7. Applicant's arguments filed in Paper No. 19 have been fully considered but they are not persuasive regarding the rejections referred to in sections 2 and 3, above.

The arguments presented in Paper No. 19 will be responded to in the order in which they were presented.

On page 3 of Paper No. 19, applicants argue that the 35 USC 102 rejection over Rosenbaum is improper because Rosenbaum teaches the use of less than 40% of an ULDE component.

However, at page 10, lines 9-36, Rosenbaum teaches films containing 30 to 60% of a first component that is an ethylene/propylene copolymer (lines 11 and 13) and 25 to 50% of a second component, which may be a polybutene (line 21). Since its films have the same properties as applicants' films (see page 5, lines 14-30), the density of the first component would inherently be the same as the density of applicants' first component.

On page 3, applicants argue that the 35 USC 103 rejection over Rosenbaum and Sudo is improper because the Sudo does not disclose a blend containing, as a first component, an ethylene/alpha-olefin copolymer.

However, Sudo need not teach such blends. Rosenbaum does. The rejection is based upon the teachings of both Sudo and Rosenbaum.

On pages 3 and 4, applicants argue that Rosenbaum fails to teach a blend analogous to applicants'.

However, as discussed above, Rosenbaum teaches blends of ethylene/-propylene copolymers with polybutene or other olefinic polymers, which blends produce films having properties similar to applicants'.

The arguments concerning the application of Rosenbaum and Wilhoit under 35 USC 103 to claims 4-8, 13-16, and 26-30 recited on page 4 of Paper No. 19 are rendered moot by the withdrawal of that rejection.

On page 4 applicants argue that the 35 USC 103 rejection of claims 21 and 35-37 over Rosenbaum and Wilhoit is improper because Wilhoits' films are heat shrinkable.

However, Wilhoit's films are heat sealable, but not necessarily heat shrinkable. The data shown in its Table 1 relates to films that have been biaxially stretched, in the machine direction (MD) and the transverse direction (TD), to render them heat shrinkable. Wilhoit does not teach that all of its films are stretched. Note, especially, col. 19, lines 13-16, where it says its film ". . . may be usefully employed as a blown film, cast film or *may be axially stretcd [sic] in or to two directions to produce a heat shrinkable film. . .*" [Emphasis added.]

Applicants argue, on page 4, that one would not look to Wilhoit's heat shrinkable films in order to develop improved autoclavable medical films.

As was stated above, Wilhoit's films are not necessarily heat shrinkable. Therefore, they could be employed in autoclavable articles.

Furthermore, claims 21 and 35-37 do not recite autoclavable containers. Note that claim 21 does not call for autoclavability.

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On page 4, applicants attempt to distinguish over Wilhoit by arguing that its films shrink significantly at 90°C, but applicants' films show creep of less than 150% at 120°C under specified conditions.

As discussed above, Wilhoits' films are only heat shrinkable when they are subjected to optional stretching. Otherwise, they are heat sealable, as are Rosenbaum's.

Furthermore, applicants have not demonstrated that the Wilhoit films would not have the properties recited in applicants' claim 1 and on Rosenbaum's page 5.

Final Rejection

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

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